

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	CASE NO. 17-60610-WLH
)	
ROGER LEWIS DOWD,)	CHAPTER 7
Debtor.)	
_____)	
)	
DYNAMITE MARKETING, LLC,)	
Plaintiff,)	
)	
vs.)	ADVERSARY PROCEEDING
)	NO. 18-05006-WLH
)	
ROGER LEWIS DOWD,)	
Defendant.)	

MOTION FOR ENTRY OF DEFAULT JUDGMENT
AS TO COUNTS I, II, AND V ONLY

NOW COMES DYNAMITE MARKETING, LLC (“Dynamite”) a creditor in the above-referenced case and Plaintiff in this proceeding, by and through its undersigned counsel, and pursuant to Federal Rule of Civil Procedure 55 (“FRCP 55”), made applicable herein by Federal Rule of Bankruptcy Procedure 7055 (“FRBP 7055”), hereby respectfully moves this Honorable Court for entry of a Default Judgment in favor of Dynamite and against the Defendant, ROGER LEWIS DOWD (“Defendant” or “Debtor”), as to Counts I, II, and V only. In support of this Motion, Dynamite shows this Honorable Court the following:

1.

Debtor filed for relief under Chapter 7 of Title 11 of the United States Code on June 15, 2017, same being case number 17-60610-WLH.

2.

On January 5, 2018, Dynamite initiated this adversary proceeding against Defendant by filing a Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. §§ 523(a)(2)(A)

and (a)(6) and Objection to Discharge Pursuant to 11 U.S.C. §§ 727(a)(2) and (a)(4), for Money Judgment, and for Attorney's Fees (the "Complaint").

3.

On January 8, 2018, the Clerk of the United States Bankruptcy Court in and for the Northern District of Georgia, Atlanta Division, issued a Summons pursuant to the Complaint. Pursuant to Federal Rule of Bankruptcy Procedure 7004, on January 8, 2018, Dynamite, by and through counsel, served a copy of the Summons and Complaint upon Defendant by way of First Class U.S. Mail.

4.

Pursuant to Federal Rule of Bankruptcy Procedure 7012, Defendant had thirty (30) days from the issuance of the Summons in which to file an Answer to the Complaint. As such, the deadline for Defendant to file an Answer was no later than February 7, 2018.

5.

Defendant, Roger Lewis Dowd, failed to file an Answer by February 7, 2018.

6.

On February 16, 2018, the Clerk of the United States Bankruptcy Court in and for the Northern District of Georgia, Atlanta Division, entered a default against Defendant.

7.

Pursuant to Count I of the Complaint, Dynamite seeks (i) a money judgment against the Debtor in the amount of \$344,407.17, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court pursuant to 11 U.S.C. § 523(a)(2)(A); and (ii) a judgment against the Debtor declaring that the debt owed to Dynamite in the amount of \$390,709.92, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court, be

determined nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A).

8.

Pursuant to Count II of the Complaint, Dynamite seeks (i) a money judgment against the Debtor in the amount of \$344,407.17, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court pursuant to 11 U.S.C. § 523(a)(6); and (ii) a judgment against the Debtor declaring that the debt owed to Dynamite in the amount of \$390,709.92, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court, be determined nondischargeable pursuant to 11 U.S.C. § 523(a)(6).

9.

Pursuant to Count V of the Complaint, Dynamite seeks a judgment in its favor and against the Debtor awarding Dynamite its attorney's fees and costs of litigation, with same being held non-dischargeable in bankruptcy, and as such, excepted from discharge.

10.

Dynamite is entitled to Judgment by Default in favor of Dynamite and against Defendant, Roger Lewis Dowd, as to Counts I, II, and V, pursuant to FRCP 55, made applicable herein by FRBP 7055. Dynamite reserves the right to prosecute the remaining counts of the Complaint, Counts III and IV, or move to dismiss Counts III and IV of the Complaint pursuant to Federal Rule of Bankruptcy Procedure 7041 at a later date.

WHEREFORE, Dynamite respectfully moves this Honorable Court for the entry of a Default Judgment:

(a) pursuant to Count I of the Complaint, granting Dynamite a money judgment against the Debtor in the amount of \$344,407.17, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court pursuant to 11 U.S.C. § 523(a)(2)(A);

(b) pursuant to Count I of the Complaint, granting Dynamite a judgment against the Debtor declaring that the debt owed to Dynamite in the amount of \$390,709.92, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court, be determined nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A);

(c) pursuant to Count II of the Complaint, granting Dynamite a money judgment against the Debtor in the amount of \$344,407.17, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court pursuant to 11 U.S.C. § 523(a)(6);

(d) pursuant to Count II of the Complaint, granting Dynamite a judgment against the Debtor declaring that the debt owed to Dynamite in the amount of \$390,709.92, plus pre-judgment interest, post-judgment interest, attorneys' fees and all costs of Court, be determined nondischargeable pursuant to 11 U.S.C. § 523(a)(6); and

(e) for such other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this 19th day of February, 2018.

/s/ Albert F. Nasuti

ALBERT F. NASUTI

Georgia State Bar No. 535209

MICHAEL B. PUGH

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CERTIFICATE OF SERVICE

This is to certify that on February 19, 2018, I served the **Motion for Entry of Default Judgment as to Counts I, II, and V Only** by depositing a copy of same in an envelope with adequate postage affixed thereon to insure delivery via first class, regular mail upon:

Roger Lewis Dowd
3400 Straford Road
Apt. 2409
Atlanta, Georgia 30326

David E. Galler
Galler Law, LLC
P. O. Box 2118
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Office of the US Trustee
Room 362
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Atlanta, Georgia 30303

/s/ Albert F. Nasuti
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